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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,988	04/17/2006	Marcello Memmolo	19725	8467
272 7590 01/04/2012 SCULLY, SCOTT, MURPHY & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
SINGH, SUNIL K				
ART UNIT		PAPER NUMBER		
3732				
MAIL DATE		DELIVERY MODE		
01/04/2012		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/575,988

Applicant(s)

MEMMOLO ET AL.

Examiner

SUNIL K. SINGH

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-14 and 16-21 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 11-14 and 16-21 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CIBO)
Paper No(s) Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s) Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

This action is in response to Applicant's remarks filed on 11/01/2011.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11, 13, 14 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogt et al. (US 2004/0096804) in view of Porter et al. (US 2004/0101808).

Vogt discloses a dental implant and (4A-4B) and a transfer part of a dental implant (3 in Figs. 3a-3c) that includes: a free extension (33) at one end of a transfer part that is capable of coupling a rotational tool and a first radial groove adjacent to the free extension that is capable of receiving a securing element (Figs. 3a-3c); a clamping portion (30); a force transmission element (300) having an octagonal surface [0088]; an extension (30) having an outer polyhedral (Figs. 3a-3c) and a fixing portion (32) positioned between the extension (33) and the clamping portion (30) (Figs. 3a-3c); wherein the clamping portion (30) provides the sole connection between the transfer part and the implant (Fig. 5b); wherein the clamping portion comprises the force transmission element (300) capable of securing clamping connection against rotation .

Vogt further discloses a combination of a transfer part (as previously described) and an inner ampule (Figs. 7a-8c) where the inner ampule includes: a laterally open upper fixing portion (40) with indentions (42) that enlarges radially toward a large surface recess (43) (also shown in Fig. 8a); a lower fixation portion having a laterally open indentation towards the recess and adapted to receive the implant (Fig 8c). Furthermore, Vogt discloses an ampule that includes: the indentation of the upper fixing portion (402) is trumpet like (Figs. 7a-7b) and the lower fixing portion is configured in the form of two support wings (Fig. 8c); the indentation is adapted to receive a fixing portion of the transfer part (Fig. 7e and 8c) and where lower fixing portion is adapted to receive an implant shoulder (Fig. 8c); and where the recess (61) is formed with rounded corners at its lower portion opposite to the indentation (Fig. 8c). However, Vogt fails to disclose a dental implant having an undercut dimensioned suitably for clampingly receiving a clamping ring; wherein the undercut corresponds the radial groove of the transfer part; a clamp ring having a gap in its non-assembled state that is inserted in the second radial groove; and wherein the clamping portion connects to the dental implant via clamp ring; an wherein the transfer part includes a second radial groove (right above section 301) that is capable to directly engage with the dental implant and is located adjacent to the force transmission element.

Porter teaches a dental implant (10) that includes an undercut (110) dimensioned suitably for clampingly receiving a clamping ring (116) and wherein the clamping ring allows the clamping portion to connect to the dental implant (Fig. 6D); wherein the clamping ring has a gap in a non-assembled state; wherein the undercut (110)

corresponds to the radial groove (112) of the transfer part (64); and wherein the transfer part includes a second radial groove (112) adjacent the force transmission element (46). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Vogt, to include a transfer part having a second radial groove and an implant having an undercut dimensioned suitably for clampingly receiving a clamping ring and the clamping ring being placed in the radial groove of the transfer part (2nd radial groove) that contacts the implant's undercut, as taught by Porter, in order to provide an anti-rotational locking system where the implant is lockingly secured onto the transfer part of the apparatus.

3. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vogt et al. (US 2004/0096804) in view of Porter et al. (US 2004/0101808) and further in view of Sutter et al. (US 5,078,605).

Vogt/Porter discloses the invention substantially as claimed except for a clamp ring being formed from polyether ether ketone (PEEK).

Sutter teaches a ring (31) that is inserted in a groove (25d) that is made of PEEK in order to provide a material non-toxic, biocompatible, and capable of being easily processed (Column 5, Lines 44-51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Vogt/Porter by forming a ring made of PEEK, as taught by Sutter, in order to provide a ring that is non-toxic and capable of easily being processed.

Response to Arguments

4. Applicant's arguments filed 11/01/2011 have been fully considered but they are not persuasive. Applicant argues that Porter's force transmission element is not capable of acting as a force transmission element because it does not lock into the implant and the actually anti-rotation feature (48) does not have a groove directly adjacent to it. However, the examiner points out that there are very little structural limitations in the claims that define the force transmission element. The examiner is actually referring to the transmission element to be both elements 46 and 48 combined. Again, the claims does not structurally claim the limitation to differentiate the structure of the force transmission element to be differentiated from elements 46 and 48 combined. It is the Examiner's position that the elements used to refer to as the force transmission element is capable of performing the function of the force transmission element as claimed. As stated in previous interviews, the Examiner suggests amending the claims to include the ampoule and to highlight the structural differences of the ampoule of the present invention with the prior art ampoules.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EXAMINER whose telephone number is (571)272-3460. The examiner can normally be reached on Monday – Friday (Increased Flex Schedule).

If attempts to reach the examiner by telephone are unsuccessful, ***please contact the examiner's supervisor, SPE, at (571) 272-4964.*** The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If there are any inquiries that are not being addressed by first contacting the Examiner or the Supervisor, you may send an email inquiry to

TC3700_Workgroup_D_Inquiries@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12/21/2011

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